

Atty. Docket No. 575.040

Amendments to the Drawings:

The drawings submitted herewith include new Figure 6. Attached hereto is a new sheet showing this figure.

Applicant requests that Figures 6, 7, 8A, 8B, and 8C filed with the response dated September 11, 2006 be cancelled in view of the Examiner's objections thereto.

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REMARKS/ARGUMENTS

This submission is made in response to the Final Office Action dated December 29, 2006. Claims 38-53 are currently pending for examination, of which claims 38 and 40 are independent and claims 39 and 41-53 are dependent. Applicant has filed herewith an Amendment amending the specification, canceling all previously presented claims and presenting new claims 38-53, 1 new drawing sheet with new Figure 6, a Request for Continued Examination, and a Petition and Fee for Extension of Time.

Applicant and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Examiner is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the foregoing amendments and following remarks.

Amendments have been made to correct informalities in the claims and to clarify claim language. It should be noted the amendments made herein are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution, and that Applicants specifically state that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Interview with Examiner:

On February 15, 2007 Applicant's representatives conducted a telephonic interview with Examiner Mai to discuss the Examiner's objections to the drawings. The Examiner explained the reasons for objecting to the drawings filed on September 11, 2006 as constituting new matter and

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the reasons for maintaining the outstanding objections. In view of that discussion the drawings filed on September 11, 2006 have been withdrawn. New Figure 6 has been filed with this Amendment in order to address the Examiner's objection that the material of the tire support extending past the lugs has not been shown. As can be seen from new Figure 6 the extent of the tire spinner is indicated by broken lines so as to no longer indicate a specific relationship between the length of the tire spinner and the lugs other than the depiction of the tire spinner extending beyond the lugs. Applicant greatly appreciates the Examiner's advice and cooperation as to this matter.

Applicant's representatives and the Examiner had several other informal discussions regarding the Examiner's objections. It is believed that in the course of these discussions the Examiner's objections were adequately addressed and resolved without the need for further amendments to the Drawings.

Should the Examiner have further objections to the Drawings Applicant respectfully requests that the Examiner contact Applicant's representatives in order to resolve any further problems before the issuance of another Office Action.

New Drawings and Amendments to the Specification:

Submitted herewith is new drawing Figure 6 and amendments to the Specification reflecting the new drawing. Applicant respectfully submits that no new matter has been added and that these changes are supported by the original disclosure, drawings and claims under MPEP § 608.04.

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Objections to the Drawings:

The Examiner has disapproved the drawings filed September 11, 2007 as containing new matter. As previously indicated these Amendments to the Drawings have been withdrawn. Similarly, the Specification has been amended to cancel any referrals to these drawings. Applicant respectfully requests that the Examiner withdraw the objection.

The Examiner has objected to the Drawings under 37 C.F.R. § 1.83(a) for failing to depict claimed subject matter and for other informalities.

Examiner objects to the Drawings stating that movement about vertical and horizontal axes is not shown in the Drawings. Applicant respectfully points out that Figure 3 does support such claim language. Figure 3 depicts arm 100 pivotally attached to vehicle bumper 70 at pivot point 110. This results in rotation about a vertical axis. Figure 3 also depicts pivot arm 130 pivotally attached to arm 100 at second pivot point 140. This results in rotation about a horizontal axis. Applicant respectfully submits that the Drawings depict the claimed subject matter and respectfully requests that the Examiner withdraw this objection.

Examiner objects to the Drawings stating that material extending past the at least one lug is not shown in the Drawings. Applicant has added new Figure 6. Figure 6 shows a partial top view of the tire carrier with tire spinner 170 and lugs 160A, 160B and 160C attached to tire support 150. As can be seen from Figure 6 tire spinner 170 extends from tire support 150 past the length of lugs 160A, 160B and 160C. The length of tire spinner 170 is depicted in a broken line so as to no longer indicate a specific relationship between the lengths of the tire spinner and the lugs as discussed above. Applicant respectfully submits that the Drawings depict the claimed subject matter and respectfully requests that the Examiner withdraw this objection.

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Examiner objects to the Drawings stating that the material extending about 240° and 360° is not shown in the Drawings. Applicant respectfully points out that Figure 5 depicts the tire spinner 170 extending for approximately 2/3rds of its total circumference or about 240°. Applicant respectfully submits that the Drawings depict the claimed subject matter and respectfully requests that the Examiner withdraw this objection.

Examiner objects to the Drawings stating that movement of the tire above the ground and the tire contacting the ground is not shown. Applicant respectfully submits that this subject matter is adequately represented in Figure 3. Applicant respectfully submits that the Drawings depict the claimed subject matter and respectfully requests that the Examiner withdraw this objection.

Examiner objects to the Drawings stating that the length of the at least one lug less than the length of the supporting material is not shown in the Drawings. Applicant has added Figure 6 as previously discussed. Applicant respectfully submits that the Drawings depict the claimed subject matter and respectfully requests that the Examiner withdraw this objection.

Examiner objects to the Drawings stating that the electrical winch must be shown. Applicant respectfully submits that conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawings in the form of a graphical drawing symbol or labeled representation. 37 C.F.R. § 1.83(a). Applicant respectfully traverses the Examiner's objection and submits that the drawings are in compliance with 37 C.F.R. § 1.83(a). Figure 3 depicts winch 200. The specification at page 12 line 19-page 13 line 8 provides detail as to winch 200 stating that winch 200 may be either manual or electric. Applicant respectfully submits that Figure 3.

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adequately depicts winch 200. An electric winch is disclosed and detailed illustration is not essential for a proper understanding of the invention as those in the art would readily understand from Figure 3 and the specification that an electric winch may be used in the current invention. Those in the art would surely be familiar enough with the operation of an electric winch such that detailed illustration would not be essential for them to properly understand Applicant's invention. Applicant respectfully submits that the Drawings depict the claimed subject matter and respectfully requests that the Examiner withdraw this objection.

Examiner objects to Figure 3 stating that Applicant's invention is inoperative in this Figure because tire support is connected to the back of pivot arm 130 and therefore must interfere with arm 100 when pivot arm 130 is rotated upward. Applicant respectfully traverses this objection. Applicant previously addressed a similar objection made by the Examiner in a prior Office Action in the Response dated December 21, 2005. Those remarks apply with equal force to this objection and are hereby fully incorporated into this Response. As can be understood from the Specification, Figure 3 and Applicant's prior remarks pivot arm 130 scissors past arm 100 with tire support 150 attached. Tire support 150 does not inhibit the motion of pivot arm 130. Figure 5 depicts the tire carrier in a closed position. Figures 3 and 5, in conjunction, show that the tire carrier can be closed without the tire support 150 interfering with the motion of the pivot arm 130. Applicant respectfully submits that the current invention is most certainly operative and respectfully requests that the Examiner withdraw this objection.

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Rejection for Non-Statutory Obviousness-Type Double Patenting based upon U.S. Patent 6,613,834 in view of Jozefczak:

Claims 13, 15-19, 21, and 27-32 stand rejected on the grounds of Non-Statutory Obviousness-Type Double Patenting over claims 1-5 of Applicant's prior patent USPT 6,613,834 in view of USPT 5,186,371 to Jozefczak (hereinafter "Jozefczak").

Claims 13, 15-19, 21 and 27-32 have been cancelled. Thus rendering the rejection moot. Should the Examiner make a similar rejection to newly presented claims 38-53 Applicant is willing to file a Terminal Disclaimer to overcome a proper obviousness-type double patenting rejection upon the resolution of any other patentability issues.

Rejections under 35 U.S.C. § 112, 1st paragraph:

Claims 27-37 stand rejected under 35 U.S.C. § 112, 1st paragraph for failing to meet the written description requirement.

Claim 27-37 have been cancelled. Thus rendering the rejection moot. Claim 40 is directed towards similar subject matter as claim 27 but the claim recites a tire support affixed to a pivot arm proximate to a distal end of the pivot arm as shown in Figure 3. Applicant respectfully submits that new claims 38-53 satisfy the written description requirement.

Rejection of claims 13-19, 21 and 27-30 over Mrozowski:

Claims 13-19, 21 and 27-30 stand rejected as being anticipated by U.S. Patent 5,183,192 to Mrozowski et al. (hereinafter "Mrozowski") under 35 U.S.C. § 102(b).

Alternatively claims 13-19, 21 and 27-30 stand rejected as being unpatentable over Mrozowski in view of Hansen or Kennedy under 35 U.S.C. § 103(a).

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Claims 13-19, 21 and 27-30 have been cancelled. Thus rendering the rejections moot. Applicant respectfully submits that new claims 38-53 fully distinguish over the teachings of Mrozowski, Kennedy, and Hansen taken separately or in combination.

Rejection of claims 13-21 and 27-37 over Jozefczak ('371):

Claims 13-21 and 27-37 stand rejected as being unpatentable over Jozefczak in view of JP 258755, or JP 315351, or Kennedy under 35 U.S.C. § 103(a).

Claims 13-21 and 27-37 have been cancelled. Thus rendering the rejections moot. Applicant respectfully submits that new claims 38-53 fully distinguish over the teachings of Jozefczak, JP 258755, JP 315351, and Kennedy taken separately or in combination.

Claims 13-21 and 27-30 stand rejected as being unpatentable over Jozefczak in view of Hansen under 35 U.S.C. § 103(a).

Claims 13-21 and 27-30 have been cancelled. Thus rendering the rejection moot. Applicant respectfully submits that new claims 38-53 fully distinguish over the teachings of Jozefczak and Hansen taken separately or in combination.

Rejection of claims 13-21, 27-31 and 33-37 over Newbill:

Claims 13-21, 27-31 and 33-37 stand rejected as being unpatentable over Newbill in view of JP 258755 or JP 315351 under 35 U.S.C. § 103(a).

Claims 13-21 and 27-31 and 33-37 have been cancelled. Thus rendering the rejections moot. Applicant respectfully submits that new claims 38-53 fully distinguish over the teachings of Newbill, JP 258755, and JP 315351 taken separately or in combination.

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Claims 13-21, 27-31 and 33-37 stand rejected as being unpatentable over Newbill in view of Hansen under 35 U.S.C. § 103(a).

Claims 13-21 and 27-31 and 33-37 have been cancelled. Thus rendering the rejection moot. Applicant respectfully submits that new claims 38-53 fully distinguish over the teachings of Newbill and Hansen taken separately or in combination.

Claim 32 stands rejected as being unpatentable over Newbill in view of JP 258755, JP 315351, or Hansen and in further view of Klein or Kennedy under 35 U.S.C. § 103(a).

Claim 32 has been cancelled. Thus rendering the rejections moot. Applicant respectfully submits that new claims 38-53 fully distinguish over the teachings of Newbill, JP 258755, JP 315351, Hansen, Klein, and Kennedy taken separately or in combination.

Claims 13-21 and 27-37 stand rejected as being unpatentable over Newbill in view of Kennedy under 35 U.S.C. § 103(a).

Claims 13-21 and 27-37 have been cancelled. Thus rendering the rejection moot. Applicant respectfully submits that new claims 38-53 fully distinguish over the teachings of Newbill and Kennedy taken separately or in combination.

Request for Interview:

If the Examiner finds any further pending issues of patentability, Applicant respectfully requests to the courtesy of telephonic interview with Applicant's representatives to resolve any such issues before the issuance of another rejection by the Examiner.

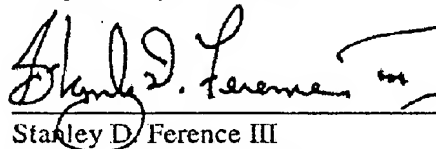
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The "prior art made of record" has been reviewed. Applicant acknowledges that such prior art was not deemed by the Office to be sufficiently relevant to have been applied against the claims of the instant application. To the extent that the Office may apply such prior art against the claims in the future, Applicant will be fully prepared to respond thereto.

In view of the foregoing, it is respectfully submitted that Claims 38-53 fully distinguish over the applied art and are thus in condition for allowance. It is also respectfully submitted that dependent Claims 38-53 are also in condition for allowance.

In summary, Claims 38-53 are fully distinguishable over the applied art and immediately allowable. Notice to that effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Stanley D. Ference III
Registration No. 33,879

Customer No. 35195
FERENCE & ASSOCIATES LLC
409 Broad Street
Pittsburgh, Pennsylvania 15143
(412) 741-8400
(412) 741-9292 - Facsimile

Attorneys for Applicant